

1 \_\_\_\_\_ BILL NO. \_\_\_\_\_

2 INTRODUCED BY \_\_\_\_\_  
 3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A PHASED-IN INCREASE OF THE COAL  
 5 SEVERANCE TAX IMPOSED ON THE PRODUCTION OF COAL HAVING A HEATING QUALITY THAT IS  
 6 EQUAL TO OR GREATER THAN 7,000 BTU PER POUND OF COAL; ALLOWING REDUCED TAX RATES  
 7 ON THE PRODUCTION OF COAL THAT IS USED BY AN OWNER OF A GENERATION FACILITY THAT  
 8 OFFERS CONTRACTS TO SELL AT LEAST 50 PERCENT OF THE FACILITY'S OUTPUT AT COST-BASED  
 9 RATES; AMENDING SECTION 15-35-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND  
 10 A RETROACTIVE APPLICABILITY DATE."

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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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14 **Section 1.** Section 15-35-103, MCA, is amended to read:

15 **"15-35-103. (Temporary) Severance tax -- rates imposed.** (1) (a) A severance tax is imposed on each  
 16 ton of coal produced in the state in accordance with the following schedule:

17 Heating quality	Surface	Underground
18 (Btu per pound of coal):	Mining	Mining
19 Under 7,000	10% of value	3% of value
20 7,000 and over	15% of value	4% of value

21 (b) The rate of taxation for coal that meets the following conditions is one-third the applicable rate set  
 22 forth in subsection (1)(a), rounded to the nearest ~~10th~~ 100th of a percent:

23 (i) The coal is used for the production of electricity within the state in an electrical generation facility ~~that~~  
 24 ~~was constructed after December 31, 2001, and before January 1, 2008.~~

25 (ii) ~~The electrical producer agrees to offer, for use within the state, the first one-half of the amount of~~  
 26 ~~power that it produces to Montana customers and distribution services providers at a cost to be set by the public~~  
 27 ~~service commission that reflects the producer's cost of generating the electricity plus a reasonable return on~~  
 28 ~~investment~~ The owner or operator of the electrical generation facility agrees to offer contracts to sell 50% of that  
 29 facility's net generating output at a cost-based rate, which includes a rate of return not to exceed 12%, to  
 30 customers for a 20-year period.

(2) "Value" means the contract sales price.

(3) The formula that yields the greater amount of tax in a particular case must be used at each point on the schedule.

(4) A person is not liable for any severance tax upon 50,000 tons of the coal that the person produces in a calendar year, except that if more than 50,000 tons of coal are produced in a calendar year, the producer is liable for severance tax upon all coal produced in excess of the first 20,000 tons.

(5) In addition to the exemption described in subsection (4), a person is not liable for any severance tax upon up to 2 million tons of coal that the person produces as feedstock for coal enhancement facilities in a calendar year, except if more than 2 million tons of coal are produced as feedstock for coal enhancement facilities in a calendar year, the producer is liable for severance tax on all coal produced as feedstock for these facilities in excess of the first 2 million tons. (Terminates December 31, 2005--sec. 5, Ch. 318, L. 1995.)

**15-35-103. (Effective January 1, 2006) Severance tax -- rates imposed.** (1) (a) A severance tax is imposed on each ton of coal produced in the state in accordance with the following schedule:

(i) after December 31, 2005, and before January 1, 2007:

Heating quality	Surface	Underground
(Btu per pound of coal):	Mining	Mining
Under 7,000	10% of value	3% of value
7,000 and over	<del>15%</del> 20% of value	4% of value

(ii) after December 31, 2006, and before January 1, 2008:

<u>Heating quality</u>	<u>Surface</u>	<u>Underground</u>
<u>(Btu per pound of coal):</u>	<u>Mining</u>	<u>Mining</u>
<u>Under 7,000</u>	<u>10% of value</u>	<u>3% of value</u>
<u>7,000 and over</u>	<u>25% of value</u>	<u>4% of value</u>

(iii) for tax years beginning after December 31, 2007:

<u>Heating quality</u>	<u>Surface</u>	<u>Underground</u>
<u>(Btu per pound of coal):</u>	<u>Mining</u>	<u>Mining</u>
<u>Under 7,000</u>	<u>10% of value</u>	<u>3% of value</u>
<u>7,000 and over</u>	<u>30% of value</u>	<u>4% of value</u>

(b) The rate of taxation for coal that meets the following conditions is ~~one-third~~ two-thirds the applicable ~~rate~~ rates set forth in subsection (1)(a), rounded to the nearest ~~10th~~ 100th of a percent:

(i) The coal is used for the production of electricity within the state in an electrical generation facility ~~that was constructed after December 31, 2001, and before January 1, 2008.~~

~~(ii) The electrical producer agrees to offer, for use within the state, the first one-half of the amount of power that it produces to Montana customers and distribution services providers at a cost to be set by the public service commission that reflects the producer's cost of generating the electricity plus a reasonable return on investment.~~ The owner or operator of the electrical generation facility agrees to offer contracts to sell 50% of that facility's net generating output at a cost-based rate, which includes a rate of return not to exceed 12%, to customers for a 20-year period.

(2) "Value" means the contract sales price.

(3) The formula that yields the greater amount of tax in a particular case must be used at each point on the schedule.

(4) A person is not liable for any severance tax upon 50,000 tons of the coal that the person produces in a calendar year, except that if more than 50,000 tons of coal are produced in a calendar year, the producer is liable for severance tax upon all coal produced in excess of the first 20,000 tons."

NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 3. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to coal production occurring after December 31, 2004.

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